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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 LAUSTEVEION JOHNSON,

Case No. 2:17-cv-01280-JCM-PAL

8 Plaintiff,

9 v.

ORDER

10 LAW LIBRARY, et al.,

(Mot. Issue Summons – ECF No. 14)

11 Defendants.

12 This matter is before the court on Plaintiff Lausteveion Johnson's Motion Requesting
13 Issuance of Summons (ECF No. 14). This Motion is referred to the undersigned pursuant to 28
14 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice.

15 **BACKGROUND**

16 Mr. Johnson is a pro se prisoner in the custody of the Nevada Department of Corrections
17 ("NDOC"). He has received permission to proceed *in forma pauperis* ("IFP") pursuant to 28
18 U.S.C. § 1915 and LSR 1-1 of the Local Rules of Practice. This case involves Johnson's
19 allegations of civil rights violations pursuant to 42 U.S.C. § 1983. Mr. Johnson commenced this
20 action on May 8, 2017, by filing an IFP Application and a proposed complaint. The court reviewed
21 the complaint and issued a Screening Order (ECF No. 4) instructing Johnson to file an amended
22 complaint to correct certain defects in his pleading. Once he did so, *see* Am. Compl. (ECF No. 6),
23 the court rescreened the amended pleading and determined that Johnson stated two plausible
24 claims: (1) retaliation against defendants Rashonda Smith and Rodrigo Espino (Count I), and (2)
25 violation of access to the courts against defendants Rashonda Smith and Jo Gentry (Count III).
26 Screening Order (ECF No. 10).

27 The court directed electronic service of the Amended Complaint on the Nevada Office of
28 the Attorney General ("Attorney General") and instructed that a notice be filed with the court

1 indicating the names of the defendants for whom the Attorney General accepts service, and those
2 it does not. *Id.* at 7. If service could not be accepted for any of the named defendants, the court
3 ordered plaintiff to “file a motion identifying the unserved defendant(s), requesting issuance of a
4 summons, and specifying a full name and address for the defendant(s).” *Id.* at 8.

5 On April 1, 2019, the Attorney General accepted service on behalf of Defendant Rashonda
6 Smith. *See* Notice Acceptance of Service (ECF No. 11). However, service was not accepted for
7 Defendants Jo Gentry and Rodrigo Espino, which prompted the Attorney General to file their last
8 known addresses under seal. *See* Notice of Sealed Submission of Last Known Address (ECF
9 No. 13); Sealed Submission of Last Known Address (ECF No. 12).

10 Because the Attorney General did not accept service on their behalf, Johnson’s motion asks
11 the court to issue summons for Defendants Gentry and Espino using the last known addresses filed
12 under seal. In cases involving an incarcerated IFP plaintiff, the USM will serve the summons and
13 the complaint upon order of the court. *See* Fed. R. Civ. P. 4(c)(3); 28 U.S.C. § 1915(d). The Clerk
14 of the Court will be directed to issue summons to these defendants and provide the U.S. Marshal
15 Service (“USM”) with the last known addresses to attempt service.

16 If the USM is unable to serve Defendants Gentry and/or Espino at their last known address
17 and Johnson wishes to have service attempted again, he must file a timely motion specifying a
18 more detailed name and/or address for said defendant, or whether some other manner of service
19 should be attempted. Mr. Johnson is ultimately responsible for providing the USM with
20 information necessary to locate each defendant to be served. *See Walker v. Sumner*, 14 F.3d 1415,
21 1422 (9th Cir. 1994), *abrogated on other grounds*, *Sandin v. Conner*, 515 U.S. 472 (1995).
22 Pursuant to Rule 4(m), Mr. Johnson’s failure to comply with this Order by completing service by
23 **July 16, 2019**, will result in a recommendation to the district judge that any unserved defendant
24 be dismissed without prejudice.

25 Having reviewed and considered the matter,

26 **I T IS ORDERED:**

- 27 1. Plaintiff Lausteveion Johnson’s Motion Requesting Issuance of Summons (ECF
28 No. 14) is **GRANTED**.

2. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the deadline to complete service is **July 16, 2019**.
3. The Clerk of the Court shall ISSUE SUMMONS *UNDER SEAL* for Defendants Jo Gentry and Rodrigo Espino and deliver the same to the USM for service, along with a copy of the Amended Complaint (ECF No. 6), Sealed Submission of Last Known Address (ECF No. 12), and this Order.
4. The Clerk of the Court shall MAIL Mr. Johnson two (2) blank USM-285 forms along with instructions and a copy of this Order.
5. Mr. Johnson must complete the USM-285 forms (except for defendants' addresses) and mail them directly to the USM. The forms must be received by **May 16, 2019**.¹
6. Once the USM-285 forms are received, the USM shall attempt service on defendants at the addresses listed in the Sealed Submission of Last Known Address (ECF No. 12).
7. After attempting service, the USM shall redact the process receipt and return forms so that the defendants' last known address is not made publicly available.
8. The USM shall file notice with the court, and serve the notice on Johnson, indicating whether each defendant was served.
9. If the USM is unable to serve any defendant and Mr. Johnson wishes to have service attempted again, Johnson must timely file a motion specifying a more detailed name and/or address for each defendant, or whether some other manner of service should be attempted.

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¹ Johnson is advised that the mailing address to send the USM-285 forms is:

U.S. Marshal Service
333 Las Vegas Boulevard South, Suite 2058
Las Vegas, NV 89101

10. Mr. Johnson must comply with this Order by accomplishing service by **July 16, 2019**, and his failure to complete service by that date will result in a recommendation to the district judge that any unserved defendant be dismissed without prejudice.

Dated this 17th day of April 2019.


PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE